

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

|           |   |                    |
|-----------|---|--------------------|
| In re     | : | CHAPTER            |
|           | : |                    |
| ,         | : |                    |
|           | : | Bankruptcy No. KJC |
| Debtor.   | : |                    |
|           | : |                    |
|           | : |                    |
| Plaintiff | : |                    |
|           | : |                    |
| v.        | : |                    |
|           | : |                    |
|           | : |                    |
| Defendant | : | ADVERSARY NO.      |
|           |   |                    |

.....  
**PRETRIAL ORDER**  
.....

**AND NOW**, this \_\_\_\_\_ day of \_\_\_\_\_, 200\_, after colloquy with counsel at the pre-trial conference held on **[date of pretrial conference]**, it is hereby **ORDERED** that:

1. To the extent the parties have not already done so, on or before **[10 days from date of order]**, the parties shall provide the initial disclosures detailed in Fed.R.Civ.P. 26(a)(1). Any objections to the initial discovery disclosures required by Fed.R.Civ.P. 26(a)(1) shall be clearly raised in a Rule 26(f) report.

2. The following discovery and trial schedule shall now apply:

a. All motions to amend the pleadings, or for summary judgment, shall be filed on or before **(60 days from date of order)**.

b. All motions in limine (other than motions objecting to initial disclosures) shall

be filed on or before **(60 days from date of order)**.

- c. All discovery shall be completed on or before **(45 days from date of order)**.
- d. All expert witnesses shall be identified and a copy of each expert's report shall be provided to every other party, in accordance with Fed.R.Civ.P. 26(a)(2) on or before **(31 days from date of order)**.
- e. All discovery disclosures pursuant to Fed.R.Civ.P. 26(a)(3) shall be served on opposing parties and filed with the bankruptcy court on or before **(70 days from date of order)**.
- f. Any objections to Rule 26(a)(3) disclosures shall be served on opposing counsel and filed with the bankruptcy court on or before **(80 days from date of order)**.
- g. On or before **(90 days from date of order)**, the parties shall file a joint pretrial statement and file a copy with chambers. The joint pretrial statement shall be signed by all counsel. It is the obligation of the plaintiff's counsel to initiate the procedures for its preparation and to assemble and submit the proposed pretrial statement to the court. Plaintiff's counsel shall submit a proposed joint pretrial statement to defendant's counsel not less than 7 days prior to the deadline for its submission.

Counsel are expected to make a diligent effort to prepare a proposed pretrial statement in which will be noted all of the issues on which the parties are in agreement and all of those issues on which they disagree. The proposed pretrial statement shall govern the conduct of the trial and shall supersede all prior pleadings in the case. Amendments will be allowed only in exceptional circumstances and to prevent manifest injustice.

The joint pretrial statement shall be in the following form:

- (1) Basis of jurisdiction. (including a statement whether this matter is core or noncore). If the matter is noncore, the parties shall state whether they consent to the court's entry of a final order pursuant to 28 U.S.C. § 157(c)(2). If the parties disagree, they shall each cite to relevant authority to support their positions.
- (2) Statement of uncontested facts.
- (3) Statement of facts which are in dispute. [No facts should be disputed unless opposing counsel expects to present contrary evidence on the point of trial, or genuinely challenges the fact on credibility grounds.]

(4) Damages or other relief. A statement of damages claimed or relief sought. A party seeking damages shall list each item claimed under a separate descriptive heading, shall provide a detailed description of each item and state the amount of damages claimed. A party seeking relief other than damages shall list the exact form of relief sought with precise designations of persons, parties, places and things expected to be included in any order providing relief.

(5) Legal issues presented and the constitutional, statutory, regulatory and decisional authorities relied upon. (Counsel should include a brief statement regarding which party has the burden of proof on each legal issue).

(6) Witnesses listed in the order they will be called along with a brief statement of the evidence the witness will give. Witnesses shall be classified between those who any party expects to present and those whom any party may call if the need arises., If no already provided to all parties, the address and telephone number of each witness shall be disclosed.

(7) A list of all exhibits to be offered into evidence which shall be serially numbered and physically marked before trial in accordance with the schedule. Documents which a party may offer if the need arises shall be separately identified.

(8) A list of each discovery item and trial deposition to be offered into evidence. (Counsel shall designate by page portion of deposition testimony and by number the interrogatories which shall be offered in evidence at trial).

(9) Estimate trial time.

(10) A certification that the parties have attempted good faith settlement discussions without success.

- h. If the adversary proceeding is not resolved prior to the conclusion of the final pretrial/settlement conference, the adversary proceeding shall be set down for trial at the Court's first available date. Each party may file five (5) days prior to the date of trial a trial memorandum with service on the opposing party and a courtesy copy delivered to Chambers.

---

**KEVIN J. CAREY**  
**UNITED STATES BANKRUPTCY JUDGE**